

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
THURSDAY, DECEMBER 15, 2005, 9:00 A.M.**

CALL TO ORDER

Mareth Kipp, Chairperson, called the meeting to order at 9:00 a.m.

Commission

Members Present:	Mareth Kipp	Ellen Gennrich	Walter Baade	Pat Haukohl
	Betty Willert	Gary Goodchild	Walter Kolb (arrived at 9:50 a.m.)	

Commission

Members Absent: None

Staff

Members Present: Richard L. Mace, Planning and Zoning Manager
 Kathy Brady, Secretary Supervisor

Guests Present:	Ervin Sheets	Tom Bird	Richard Peyton	Kurt Beckwith
	Ken & Judy Vallier	Joseph E. Reilly	Brian Turk	Don DesMonie
	Jim Hunn	Gene Trimmel		

CORRESPONDENCE:

Correspondence was submitted from Attorney Tim Kay, representing the Okauchee Lake Yacht Club requesting reconsideration of Condition No. 3 of the Commission's decision of November 3, 2005, regarding the decibel levels at the lot lines being no more than 35 decibels. Attorney Kay states in the correspondence that 35 decibels is impracticable and is requesting the level be modified to 90 decibels. He also requests the matter be placed on the January 19, 2006, Commission meeting agenda for reconsideration.

MEETING APPROVAL None.

MINUTES None.

PUBLIC COMMENT

Chairperson Kipp asked if anyone from the audience wished to address the Commission? Mr. Ryan and Mr. Bird, adjacent neighbors, requested the Commission view a videotape with respect to CU-1410 Christopher Gorenc (after-the-fact earth altering activities in conjunction with dirt bike trails and jumps). Mr. Mace explained that Mr. Gorenc's Attorney withdrew the Conditional Use Permit application on December 14, 2005. In that correspondence submitted by the petitioner's Attorney it was requested the matter be withdrawn from the agenda and that the dirt mounds would be leveled and the wetland areas would be restored by May 15, 2006. Efforts to contact Mr. Bird regarding the matter being withdrawn were unsuccessful. He also stated that since the entire Conditional Use Permit request was withdrawn, the matter should not be discussed or considered.

Chairperson Kipp disagreed, and thought that any matter could be discussed during the "Public Comment" period. After conferring with Attorney Price, Waukesha County Corporation Counsel, the Commission was advised that "Public Comment" would be open to any comments and it was decided that the video could be reviewed, however, no discussion would take place on the matter by the Commission.

Mr. Bird said the videotape would indicate to the Commission what goes on during the summer months with respect to the dirt bike trails and jumps and the intent of what Mr. Gorenc intended to build and modify on the property. He is representing himself and 13 other neighboring families who are affected by the noise and nuisance of the dirt bike trails on the Gorenc property. Mr. Ryan, neighboring property owner, said that the dirt bike track is in violation of public nuisance laws, which allow paths or trails to be built for the operation of dirt bikes within the limitation of the Town of Vernon's Ordinances. He further explained, it does not allow Mr. Gorenc to build a racetrack. Other factors for consideration include, the contamination of water supply from oil and gas spills, the likelihood of significant soil erosion on the site, no controls in place to prevent contaminated runoff going to the wetlands, the intensification of the degree of noise and dust by the creation of the jumps, the effect on the tax base and surrounding land values, the effect of the activity on the natural beauty and character of the surrounding area and the detrimental impact the activity has on the future residential development in the area. After the tape was viewed, Chairperson Kipp asked if anyone else from the audience wished to address the Commission? There being no other public comment, she moved to the next item on the agenda.

• **ZT-1596 (William Kothe) Town of Eagle, Section 34 (A-P Agricultural Land Preservation District to the RRE-1 Residential Rural Estates District)**

Mr. Mace presented the "Addendum to the Staff Report and Recommendation" dated December 15, 2005, and made a part of these Minutes. He pointed out the location of the property, on the east side of Shearer Road in the Town of Eagle, on the aerial photograph.

Mr. Mace indicated the rezone had been before the Commission on November 3, 2005, where the Commission expressed concerns regarding the issues of the subdivision design for the property. In addition, the Town had reviewed a plan design, which would have avoided most of the difficulties outlined in the "Staff Report and Recommendation". The Commission was disappointed that the Town rejected the early subdivision designs. The Planning and Zoning Division Staff and the Commission did not have an issue with approving the rezone, however, it was their unanimous decision to return the matter back to the Town to see if a resolution to the design of the proposed subdivision could be achieved and a more positive report and recommendation made to the County Board regarding this property.

Subsequently, both the Town of Eagle Plan Commission and Town Board approved a revised Subdivision Development Plan. The new layout addressed the Planning and Zoning Division Staff's concerns, specifically the preservation of a tree line and access roads. Mr. Mace pointed out the location of the building sites, access roads, the existing farmhouse and the environmental corridor on the property. He met with the Town Planner and Town Engineer who agreed that the new layout was acceptable. In that meeting, an issue of drainage along Shearer Road was discussed. Possible solutions include a ditch being created along the east side of Shearer Road to direct drainage to the stormwater basin on Outlot 1 on the northwest corner of the property. Mrs. Haukohl asked if the building pads would be required to be located outside of the environmental corridor? Mr. Mace replied that the lots would be located so as to get the building pads to the front of the corridor and it would not be an issue. Mr. Goodchild asked how Lot 11 would be accessed? Mr. Mace replied that access would be one driveway off of Annice Lane. Mr. Goodchild inquired about the 50' recreational easement? Mr. Mace responded, that the petitioner is proposing to allow horses on the five-acre lots and to provide an opportunity for the owners to ride around the perimeter of the property. Mrs. Willert asked if there was currently a riding arena on the property? Mr. Mace answered, "No", only the farmstead. Mrs. Gennrich expressed concerns regarding the slopes on the driveways and wondered whether the Town has an

Ordinance requiring how steep the slope can be? Mr. Mace replied, he was unsure if the Town has requirements for driveway slopes.

After discussion, Mr. Goodchild moved, seconded by Mr. Baade and carried unanimously for approval, in accordance with the “Addendum to the Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **ZT-1603 (Text Amendment) Town of Eagle**

Mr. Mace presented the “Staff Report and Recommendation” dated December 15, 2005, and made a part of these Minutes. He indicated the proposed request includes amendments to the text of the Town of Eagle Zoning Code.

Mr. Mace indicated the amendments are to the four business zoning districts, which the Town presently has. It includes the elimination of one of the business districts and revising some of the standards and uses permitted in the other business districts while also renumbering those districts. In addition, a slight revision to the building location and lot size requirements of the business districts are being proposed and a revision to the RRE-1 minimum common open space and density calculations for a Conditional Use Planned Unit Development. They are also proposing to revise the Code to allow an accessory building of less than 150 sq. ft. to be constructed without a Building Permit, as long as height, setback and offset requirements are met. Chairperson Kipp asked if there would be many existing businesses, which would be grandfathered? Mr. Mace replied that businesses located east and north of the Town and Village Hall, areas by C.T.H. “LO” and “E” and scattered restaurants and bars around the lake may be affected. Mrs. Gennrich asked what precipitated the change? Mr. Mace replied he was unsure.

He further explained in the B-1 District, the present offset is 20’, which is being reduced to 10’, the present accessory structure height is 15’ which is being increased to 20’, and there is now a building footprint of 20% (site maximum) instead of a floor area ratio. In the B-2 District, the minimum lot size presently is 20,000 sq. ft. and is being increased to 30,000 sq. ft. and from 20,000 sq. ft to 40, 000 sq. ft. in the B-3 District.

Mr. Kolb arrived at 9:50 a.m.

After discussion, Mrs. Haukohl moved, seconded by Mrs. Willert and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”.

- **ZT-1588 (T & W Auto Sales) Town of Waukesha, Section 1 (B-2 Local Business District to the B-3 General Business District**

Mr. Mace presented the “Addendum to the Staff Report and Recommendation” dated December 15, 2005, and made a part of these Minutes. He pointed out the location of the property on the north side of Arcadian Avenue, approximately 500 feet west of S.T.H. 164 in the Town of Waukesha on the aerial photograph.

Mr. Mace indicated the matter had been before the Commission on September 28, 2005, and the Commission decided the rezone should be tabled and the City of Waukesha Plan Commission should be consulted regarding the possibility of making changes to the Development Plan of the City which becomes part of the County Development Plan and to consider whether or not it would be appropriate to

continue to designate the small island of residential uses as residential or to consider placing it in a mercantile or light industrial type of use.

He further explained the rezoning affects two lots, which would be joined together to be used for the sale of used cars from the petitioner's other business location. Mrs. Gennrich asked what the other uses were for the properties adjacent to the site along Arcadian Avenue? Mr. Mace replied, they are all residential properties. The small neighborhood is surrounded by light industrial/general business uses and its long-term status as a residential neighborhood is questionable. Mrs. Haukohl expressed concerns regarding the residential area being designated light industrial and the residents being forced to sell their homes.

Mrs. Vallier, neighbor, stated she has lived in her home for 36 years and the neighborhood had been intact well before she moved in. The neighborhood is clean with very little crime and a petition was submitted to the Town requesting that no changes take place. The neighbors expressed concerns whether all of the residences would be purchased as a whole or little by little, and if they should continue to make improvements to their homes. She was told by a bank if the property was rezoned, her home would be difficult to sell because a buyer would not be able to get a loan. Chairperson Kipp pointed out to Mrs. Vallier that her property was not being rezoned only the two properties in question. She asked if the two properties to be rezoned currently contain businesses? Mrs. Vallier said a former beauty shop and furniture shop occupied the properties in question. She noted the former businesses were quiet, daytime businesses. She felt a used car dealer was not appropriate so close to the residential homes and could possibly reduce property values. Chairperson Kipp asked if there was a public hearing held at the Town regarding the rezoning? Mr. Mace replied, "Yes". Mrs. Vallier said a petition was submitted at the public hearing by the neighbors objecting to a used car lot at this location due to additional traffic (people test driving vehicles), crime and environmental concerns. Mrs. Gennrich said there is an empty car dealership located on Hwy 164 and there seems to be other more appropriate places for a used car dealer than in a residential neighborhood. Mr. Kolb said the residents of the subdivision feel strongly against the rezoning to which he agreed.

Mr. Peyton, petitioner, said the Town of Waukesha's approval contains strict guidelines, which must be followed. He said they have already purchased the property and cleaned up old boats, campers and other miscellaneous junk from a former antique business. The Town has also required landscaping and screening and no vehicle repairs would be done at this location. He stated they want to be good neighbors and not to force anyone out of their homes. The proposed car lot would close at 8:00 p.m. with 25 to 30 cars on the lot at one time.

Mr. Kolb indicated that the matter had been heard by the Park and Planning Commission before. Mr. Mace said the matter was heard on September 28, 2005 (see last paragraph on Page 3). Mr. Mace noted the rezone petition was approved by both the Town of Waukesha Plan Commission and Town Board. Mr. Goodchild asked what type of businesses are allowed in the B-2 Local Business District? Mr. Mace replied, "Retail business type uses, grocery stores, neighborhood businesses", however, auto dealerships are allowed in the B-3 General Business District.

Mr. Trimmel, owner, stated before purchasing the property, he met with the neighbors who seemed favorable towards the proposed business. He stated there are many other types of businesses, which could be placed on the property and would be allowed in the B-2 Local Business District. Mr. Goodchild noted if the rezoning was approved and the used car business would fail, a more intense business use could be located in the B-3 General Business District. Mr. Peyton stated the Town was going to place a restriction on the property for "auto sales only". Mr. Mace clarified the Town would

allow any of the B-2 Local Business District uses and an automobile sales room and any similar use subject to approval of the Town Plan Commission, which excluded all other B-3 uses other than car sales. Chairperson Kipp inquired about the lighting? Mr. Peyton replied, that low-intensity floodlights would be to the west of the building facing on the vacant lot. In addition, the lights would face down on the property and would be turned off at 8:00 p.m. Mrs. Gennrich expressed concerns that if the rezoning is approved, an individual buyer would not be able to get a loan to purchase a single residence in the subdivision. She thought it may take value away from the existing residential homes. However, if the entire subdivision was sold as one industrial property, it may be worth more. Mr. Goodchild said the neighborhood is nice, contains affordable homes and the residents purchased their properties knowing the property was zoned in the B-2 Local Business District, not the B-3 General Business District. In addition, the current owner purchased the properties in question, also knowing the properties were zoned in the B-2 Local Business District. Chairperson Kipp indicated it is a problem when someone purchases a piece of property before it is rezoned to accommodate the particular use, however, the Commission cannot consider that fact in their decision.

After discussion, Mrs. Gennrich moved, seconded by, Mr. Kolb and carried unanimously for denial of the rezoning.

- **ZT-1600 (Thomson Corporation) Town of Eagle, Section 14 (A-2 Rural Home District to the RRE-1 Residential Rural Estates and M-1 Limited Industrial Districts)**

Mr. Mace presented the “Staff Report and Recommendation” dated December 15, 2005, and made a part of these Minutes. He pointed out the location of the property, south of Mailman Road and east of the Wisconsin and Southern railroad tracks, in the Town of Eagle on the aerial photograph.

Mr. Mace indicated the petitioner is proposing a residential subdivision containing 42 lots and a small 21-acre addition to the Town’s Industrial Park to the south. Approximately 20% of the site is being retained in common open space and lots sizes would be approximately 1.25 acres in size. Access will be from Mailman Road, with a possible connection to Eagle Terrace to the south. The Commission expressed concerns with reference to the light industrial area being adjacent to the residential lots. Mr. Mace explained that buffering or continuing the open space along the area designated for light industrial has been discussed.

Mrs. Gennrich asked that Mr. Mace clarify the “Compliance with the Waukesha County Development Plan” section of the “Staff Report and Recommendation”. Mr. Mace said the Village of Eagle previously placed the area in the RRD-5 category (five-acre density) and voted on September 22, 2005, to change to a three-acre density. The Village did not recognize the fact that the Town’s Planned Unit Development Ordinance allows a 2.6 acre density if there is 20% open space. On December 8, 2005, the September action was clarified indicating the Village’s specific intent to allow the development to occur, utilizing the overall three-acre density, but recognizing the increased density allowed under the Town’s Ordinance based on the Planned Unit Development provision. Mr. Goodchild asked if there were plans for a pedestrian or bike path so residents could travel to the Village avoiding walking or biking along S.T.H. 59? Mr. Mace answered, “No”, however, the opportunity could exist if it goes through the school’s land. Mrs. Haukohl asked if the common open space was owned equally by homeowners? Mr. Mace replied, “It would be owned by the lot owners and maintained by the Homeowners Association”.

After discussion, Mr. Kolb moved, seconded by Mrs. Willert and carried unanimously for approval, in accordance with the “Addendum to the Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **CU-1410 (Christopher Gorenc) Town of Vernon, Section 3**

Mr. Mace indicated the matter was withdrawn from the agenda.

- **Legal Non Conforming Conditional Use (New Era/Don DesMonie and Jim Hunn) Town of Vernon, Section 9**

Mr. Mace presented the “Staff Memorandum” dated December 15, 2005, and made a part of these Minutes. He pointed out the location of the property at S77 W25235 National Avenue in the Town of Vernon on the aerial photograph and indicated the petitioner is requesting to apply for a Conditional Use Permit to change the existing non-conforming use from an antique shop to office and retail space for the sale of frozen and dry food products.

Mr. Goodchild asked about the proposed parking because the existing parking can only accommodate approximately three vehicles? Mr. Mace replied, that there is a small concrete pad on the south end of the property to possibly add four parking spaces.

Mr. DesMonie said that Mr. Hunn (food broker) would run his business from the building. There would be one secretary with other brokers having desk space only in the building. He further explained the use is not more intense than the antique shop. They are proposing two parallel parking spaces along C.T.H. “ES” and four additional spaces behind the business.

Chairperson Kipp asked if there was an available license to sell beer and wine in the Town of Vernon? Mr. DesMonie replied, “Yes”. Chairperson Kipp asked if trucks would deliver the products? Mr. Hunn replied, “No”. He added the business deals in restaurant quality frozen products such as steaks, duck, seafood, etc. which customers would purchase. They would also feature custom recipes and ideas for how to prepare the food. Chairperson Kipp asked if the business was a wholesale operation? Mr. Hunn replied “No”. Mrs. Willert asked if customers would come to the site to purchase the products? Mr. Hunn replied, “Yes”. He clarified that the first floor would be the retail store for customers to purchase the products and the second floor contains a separate food brokerage business. He indicated they are the liaison between the manufacturer and the restaurants and would not be involved in delivering items. Mr. DesMonie noted the food brokerage business has existed since 1990 but not at this location.

Mr. Turk, Town Planner, said the Town of Vernon wished to get the Commission’s feedback and direction as to whether or not it was appropriate to proceed with the project by applying for the Conditional Use. The issues he felt are most important are parking, sanitation, deliveries and the receiving of merchandise (Mr. Hunn indicated that all deliveries come via Federal Express), intensity of use, traffic volume and hours of operation. Chairperson Kipp expressed concerns with frozen food being delivered via Federal Express. Mr. Hunn said it happens all of the time and the volume would be small. Mr. Goodchild asked if the neighbors have commented on the proposed business? Mr. Turk replied, “No, because a public hearing has not taken place yet”. Mr. Mace explained the request is to determine whether a Conditional Use Permit under the legal non-conforming Conditional Use provision was appropriate. Mrs. Gennrich said the proposed business would not be a detriment to the neighborhood and said it is a small local business not an industrial use. Mr. Goodchild asked, since the building dates back to the 1800’s, would the building need substantial updates? Mr. Turk, replied that

some ADA upgrades would need to be done although the State does have alternatives for historic buildings. Chairperson Kipp stated the Commission's action should reflect whether or not the petitioner should proceed to apply for a Conditional Use for the expansion of a legal non-conforming use or if the proposal should be denied.

After discussion, Mr. Kolb moved, seconded by Mr. Baade and carried unanimously for approval, for the petitioners to apply for a Conditional Use Permit for a change and expansion of a legal non-conforming use.

• **(TRI-ING for Children) by James W. Kavemeier, Parks System Manager**

Mr. Kavemeier, Parks System Manager, said the request is to conduct a large-scale triathlon event with approximately 1,000 to 2,000 participants. A national firm will handle the operation of the event. The event will be a benefit for children and is being sponsored by GE. The petitioner's are asking for a waiver from the park policy regarding reserving the entire Naga-Waukee Park on July 29 and 30, 2006, before January 1, 2006, which is the first date when reservations are allowed for parks for the year 2006. In addition, the petitioner's are asking for a waiver of the policy, which prevents individual sales (biking equipment and other related items to the event). The petitioners are also asking that the boat launch be closed, however, the County does not agree due to a revenue loss and it would also be taking a valued recreational outlet away from the public. Meetings have been set for January 5, 2006, to view the site and then meet in the office on January 6, 2006, to review the overall operations of the event. The Code requires that all specifics of the event be identified which currently are not in place. Permission will also need to be granted from the City of Delafield. He is asking that the dates be blocked off contingent upon him coming back before the Commission with all of the details of the event. Mr. Baade asked if the beach would be closed? Mr. Kavemeier replied, that the swimming event would take place prior to the beach being opened. Mrs. Haukohl expressed concerns that by allowing the reservation before the January 1st date, it could create a precedent for others to do so. Mr. Kavemeier reiterated the entire park is being reserved.

After discussion, Mrs. Gennrich moved, seconded by Mrs. Willert and carried by a vote of 6 to 1 (Mrs. Haukohl voted against) for approval, to waive the Park Policy for reserving Naga-Waukee Park on July 29 and 30, 2006, for the TRI-ING for Children event.

ADJOURNMENT

With no further business to come before the Commission, Mrs. Gennrich moved, seconded by Mrs. Haukohl to adjourn at 11:35 a.m.

Respectfully submitted,

Pat Haukohl
Secretary

PH:kb